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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,079	12/20/2001	Andrew Hludz	61847-013 (SNML-111)	9866

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08/26/2003

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EXAMINER

TRAN, KHOA H

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

8K

Office Action Summary	Application No.	Applicant(s)	
	10/027,079	HUDZ ET AL.	
	Examiner	Art Unit	
	Khoa Tran	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The objections to the drawings from the previous Office action has now been withdrawn because the drawings filed on February 25, 2002 have the correct margin on top of the page that allows showing of reference numerals 56 and 52.

Claim Objections

Claims 9, 19, 27 and 37 are objected to because they doubly recite a "a bottom plate". Note that claim 34 sets forth a bottom plate in the last paragraph thereof. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. With respect to claims 21 and 30, the recitation of an end walls extend between the tapered portions constitutes new matter because there is no disclosure of the end walls (42) of the base extending between the

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tapered portions (26) of the second flanges (28, 30). See Figure 1, wherein it is clearly shown that the end wall is secured below the tapered portion.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, 19-23 and 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al. ('756) in view of Mendoza ('917). Walter et al. ('756) disclose a rack frame for electrical equipment comprising a base (10) having access apertures for receiving wires therethrough and mounting apertures for securing the base to a floor, see Figure 5; a pair of vertically extended upright members (12A and 12B) each having a web portion, opposing first and second flange members projected between from the web portion, see Figure 3; a plurality of openings on the web portion for mounting electrical equipment thereon; a cross member (14) extending between upper ends of the upright members; wherein the second flange of the upright members each including a wider lower portion extending upwardly from a lower end of the upright member and an upper portion that is less wide than the lower portion extending downwardly from an upper end of the upright member and a tapered portion tapering toward the web portion between the lower and upper portions. Walter et al. ('756) do not teach a base having cut-outs to accommodate the upright members. However,

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Mendoza ('917) teaches a base (24) having cut-outs defined between end walls on a bottom plate (302) to accommodate a pair of upright members (102), see Figures 12 and 14, and a top wall (404) with access openings (412) extending horizontally from end walls above the bottom plate, wherein the end walls are secured to and extended between opposing first and second flanges (110). Mendoza ('917) also teaches the base having angle inserts (306) and vertical sections (116) positioned against the upright members (102), see Figures 8 and 12, wherein the base defined side channels extend at an angle between the bottom plate, angle inserts and web portions of the upright members (102), and a central channel defined between a flange member (328) and a base plate (312) which extending horizontally between the side channels. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base of Walter et al. ('756) with the provision of a base with cut-outs as taught by Mendoza ('917) in order to further rigidify the base with the upright members and to meet Zone 4 of the earthquake standards.

Claims 1-6, 9-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al. ('756) in view of Mendoza ('917) as applied to claims 14, 16, 19-23, and 34-39 above, and further in view of Serban ('590). Serban ('590) teaches reinforce stiffening plates (24, 26) secure flat against interior surfaces of the flange members (34, 36) of the upright members (14, 16). See Figure 4. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the lower portions of upright members of Walter et al. ('756) with reinforce stiffening plates as taught by Serban ('590) in order to strengthen the rack frame to

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withstand lateral forces throughout its vertical orientation during seismic activity. With respect to claim 3, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the reinforce plate to be approximately about one-fifth the height of the upright member for a particular application thus producing no new and unexpected results.

Claims 1-13, 15, 17, 18, 24-33 and 40-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al. ('756) in view of Mendoza ('917) as applied to claims 14, 16, 19-23 and 34-39 above, and further in view of Rinderer ('956). Rinderer ('956) teaches a brace (62) secures to a cross-member (32) and extending through a web portion (34) of each upright member (30) and secures to one of the flanges (40) of each upright member, see Figures 1, 2 and 5. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the cross member of Walter et al. ('756) with the provisions of braces attached to each upright members as taught by Rinderer ('956) in order to rigidify the connection between the cross member and the upright members to resist forces that might cause failure to the rack frame during an earthquake condition. With respect to claims 1 and 40, Rinderer ('956) also teaches a separate flange reinforcing plates (44) secure flat against the interior surfaces of flanges (36, 40) of the upright members and extending vertically from the lower end portions of the upright members (30), see Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the upright members lower end portions of Walter et al. ('756) with the

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provisions of separate flange reinforcing plates as taught by Rinderer ('956) in order to add strength to the upright members and to resist the whipping or twisting action of the upright members in an earthquake condition. With respect to claims 3, 33 and 42, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the reinforce plate to be approximately about one-fifth the height of the upright member and to routinely dimension the brace length to be equal to at least one quarter a length of the cross member for a particular application thus producing no new and unexpected results.

Claims 14, 16, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al. ('756) in view of Reece. Walter et al. ('756) disclose a rack frame for electrical equipment comprising a base (10) having access apertures for receiving wires therethrough and mounting apertures for securing the base to a floor, see Figure 5; a pair of vertically extended upright members (12A and 12B) each having a web portion, opposing first and second flange members projected between from the web portion, see Figure 3; a plurality of openings on the web portion for mounting electrical equipment thereon; a cross member (14) extending between upper ends of the upright members; wherein the second flange of the upright members each including a wider lower portion extending upwardly from a lower end of the upright member and an upper portion that is less wider than the lower portion extending downwardly from an upper end of the upright member and a tapered portion tapering toward the web portion between the lower and upper portions. Walter et al. ('756) do not teach a base having

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cut-outs to accommodate the upright members. However, Reece teaches a base (12) having cut-outs defined between end walls on a bottom plate (84) to accommodate a pair of upright members (16), see Figures 1 and 7. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base of Walter et al. ('756) with the provision of a base as taught by Reece to increase stability and strength to a lower portion of the upright members.

Response to Arguments

Applicants' arguments with respect to claims 1-48 have been considered but are moot in view of the new grounds of rejection.

With respect to applicants' arguments of Rinderer on pages 15 and 16, it should be noted that obviousness cannot be established by attacking a reference individually when a rejection is based on a combination of references. Further, there is no requirement for a secondary reference to meet every limitation of the claim before it can be utilized.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone

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number for this Group before a final Office action is (703) 872-9326 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Khoa Tran

August 18, 2003

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, stylized initial 'D'.

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600